

To:

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GRANDE BRETAGNE**PCT**Please
bring
file**WRITTEN OPINION**

(PCT Rule 66)

19 JUN '04

1 MONTH
EXTENSION
REQUESTED
KH 12/6Date of mailing
(day/month/year)

19.03.2004

Applicant's or agent's file reference
11053P1 WO/JCM**REPLY DUE****within 3 month(s)**
from the above date of mailingInternational application No.
PCT/GB 03/02801International filing date (day/month/year)
01.07.2003Priority date (day/month/year)
01.07.2002International Patent Classification (IPC) or both national classification and IPC
A61L9/03

Applicant

RECKITT BENCKISER (UK) LIMITED et al.

TO:

TO: KH 2213

CASE NUMBER

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

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ACKNOWLEDGEMENT

RENEWALS

3. The applicant is hereby **invited to reply** to this opinion.**When?** See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).**How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.**Also:** For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 01.11.2004

Name and mailing address of the international preliminary examining authority:

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I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-11 as originally filed

Claims, Numbers

1-30 as originally filed

Drawings, Sheets

1/2-2/2 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been and will not be examined in respect of:

☐ the entire international application,

☒ claims Nos. 30

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

2. A written opinion cannot be drawn due to the failure of the nucleotide and/or amino acid sequence listing to comply with the Standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-6,8,15,17,18 (NO)
Inventive step (IS)	Claims	7,9-14,16,19-29 (NO)
Industrial applicability (IA)	Claims	1-29 (YES)

2. Citations and explanations

see separate sheet

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. Claim 30 does not meet Rule 6.2(a) PCT.

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

- 2.1 The following documents are referred to in this communication:

D1: US-A-5 644 866
D2: GB-A-2 347 860
D3: WO 01 39809 A
D4: WO 98 46283 A
D5: US-A-4 977 309
D6: GB-A-2 357 973

- 2.2 The documents D1, D2 and D3 disclose apparatus with all the features of the apparatus defined in claim 1, in particular:

Document D1 discloses an electrically heated apparatus for dispensing an insecticide comprising a container (see 12 in Fig. 2), heating means (4), transfer means (13) and a portable power supply (5), wherein the heating means comprises a flexible thin film heater (= organic PTC, see col. 2, l. 50-col. 3, l. 14, and Fig. 3, 4).

Document D2 discloses an electrically heated apparatus for dispensing fragancing materials comprising a container (= recesses, 11-14), heating means (16), transfer means (= fragrance carriers, 3-6) and a portable power supply (= battery, p. 2, l. 9-11), wherein the heating means comprises a flexible thin film heater (= electric resistance foil, see p. 2, l. 21-24).

Document D3 discloses an electrically heated apparatus for dispensing

fragrancing materials (= air freshener) comprising a container (1), heating means (9), transfer means (4) and a portable power supply (= battery, p. 6, l. 15-16), wherein the heating means comprises a flexible thin film heater (see p. 6, l. 6-12).

Therefore, the subject-matter of claim 1 is anticipated by D1, D2 and D3 (Art. 33.2 PCT).

2.2 Dependent claims 2-29 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty (Art. 33.2 PCT) and/or inventive step (Art. 33.3 PCT), the reasons being as follows:

- 2.2.1 Claims 2-6, 15, 17 and 18. The apparatus of D1 comprises a laminar (see Fig. 3 and 4) of polymer (= thermoplastic polyolefin resin) film material having PTC characteristics, and laminars of insulating material (11). Further, the battery cell is rechargeable (see col. 3, l. 15-16), the transfer means comprises a wick and the heating means is attached in proximity to the wick (see Fig. 2).
 - 2.2.2 Claim 7. Document D4 discloses an electrically heated apparatus for dispensing fragrancing materials (= air freshener) comprising a container (= hollow body, 18), heating means (36) and transfer means (= wick matrix, 16), wherein the heating means comprises a flexible thin film heater (= page 7, l. 22-27). In particular, the resistive material can be in the form of a resistive ink.
 - 2.2.3 Claim 8. The resistive material of D2 and D3 can be in the form of a resistive wire.
 - 2.2.4 Claim 12. Document D5 discloses an organic PTC thermistor having an overall thickness of 500 μm (see col. 3, l. 1-15).
 - 2.2.5 An electrically heated apparatus with the features of claims 16, 21-24 and 29 is known from D6.
 - 2.2.6 Claims 9-11, 13-15, 17-20 and 25-28 contain only matter of normal design procedure and do not involve an inventive step as no particular or unexpected effect is apparent.
3. It is at present not clear which part of the application could serve as a basis for a new independent claim fulfilling the requirements of Art. 33.2 and 33.3 PCT.

Should the applicant nevertheless regard some particular matter as inventive, an independent claim should be filed taking account of Rule 6.3(b) PCT. The applicant should also indicate in the letter of reply the difference of the subject-matter of the new claim vis-à-vis the state of the art and the significance thereof.

Certain observations on the international application (clarity)

- 4.1 The claims are not fully supported by the description (Art. 6 PCT). The insertion of a sentence in the description indicating that the invention is defined in the claims would suffice.
- 4.2 According to present claim 3, the resistive material is a polymer thick or thin film material. However, according to claim 8, which refers back to any of claim 2-7, the resistive material is formed "at least partially from **resistive wire**", resulting in lack of clarity (Art. 6 PCT).
- 4.3 The features of the claims should be provided with reference signs placed in parentheses to increase the intelligibility of the claims (Rule 6.2(b)).

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